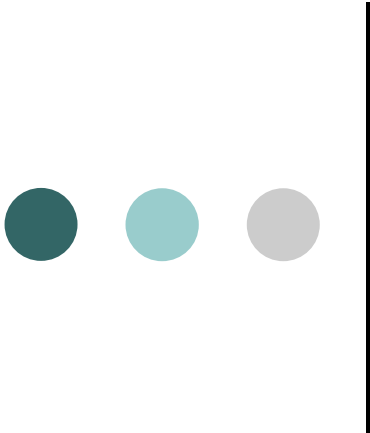


US EPA ARCHIVE DOCUMENT



Treatment as a State under the Clean Air Act's Tribal Authority Rule

Benjamin Giwojna, ARD

Barbara Wester, ORC

Tribal Environmental Program Management Conference

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Tribal Authority Rule - 1998

- Creates explicit role for Tribes under CAA
- Allows EPA to “fill gaps” where federally authorized tribal programs do not provide full coverage
- Provides authority for tribes to establish tribal implementation plans (40 CFR Part 49), just as states have state implementation plans (40 CFR Part 52)



CAA as a Delegation

- EPA interprets the CAA to provide a delegation of authority to states and tribes
- Generally, no independent showing of inherent tribal authority is necessary
- Limited role of “appropriate governmental entities” to comment



Provisions for which TAR TAS is Available

- “Cafeteria” approach
- CAA 105 program grants
 - Reduces match from 40% to 5%
 - Can be included in PPGs
 - Can do limited determination for grants only!
- Other programmatic authorities
 - Minor sources
 - Title V
 - Others
- “Provisions for which no separate Tribal Program is Required”



Eligibility Factors for TAS

- Federal Recognition
- Government carrying out substantial duties and powers
- Jurisdiction
- Programmatic Capacity/Capability



Role of “Appropriate Governmental Entities”

- Must have boundaries that touch the reservation
- Limited scope for comments
- Region 5 practice to provide “courtesy” notification of governments within 50 mile radius of applicant’s reservation



Application Process

- Conference call or meeting with EPA Team
- Evaluation of application and checklist
- Notice to AGEs
- Resolution of any outstanding issues
- Recommendation to Regional Administrator
- Final eligibility determination
- Financial award process



Once CAA Eligibility Established

- Work Plan Development
- Tribal Program Development
- Adding additional authorities
- Adding additional reservation lands



Additional CAA Authorities

- **CAA § 105 Grants for support of air pollution planning and control programs**
- **CAA § 107(d)(3) Air quality control regions**
- **CAA § 110 (a)(2)(D) Adverse impact of air quality on downwind lands**
- **CAA §112(r)(7)(B)(iii) Hazardous air pollutants**
- **CAA § 126 Interstate pollution abatement**
- **CAA §§ 169B Visibility, 176A Interstate transport commission, 184 Control of interstate ozone pollution**
- **CAA § 505(a)(2) Notification to Administrator and contiguous States**



Who to Call for Help

- Air and Radiation Division:
 - Ben Giwojna, 312-886-0247
- Office of Regional Counsel:
 - Barbara Wester, 312-353-8514